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SENATE BILL 189

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO EDUCATION; REQUIRING READING PROFICIENCY PRIOR TO  
PROMOTION TO THE FOURTH GRADE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-2-8.6 NMSA 1978 (being Laws 1986,  
Chapter 33, Section 7, as amended) is amended to read:

"22-2-8.6. EDUCATIONAL CONTENT STANDARDS--REMIATIION  
PROGRAMS--PROMTION POLICIES--RESTRICTIONS. --

A. The state board shall identify educational  
content standards as measured by the state assessment program  
and establish performance levels of proficiency. Remediation  
programs, academic improvement programs and promotion policies  
shall be aligned with content standards and based on the  
following:

- (1) statewide assessment results;

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1 (2) alternative school - district - determined  
2 assessment results; and

3 (3) student performance in school.

4 B. Local school boards shall approve district-  
5 developed remediation programs and academic improvement  
6 programs to provide special instructional assistance to  
7 students in grades one through eight who fail to attain a level  
8 of proficiency established by the content standards. The cost  
9 of remediation programs and academic improvement programs shall  
10 be borne by the school district. Remediation programs and  
11 academic improvement programs shall be incorporated into the  
12 school district's educational plan for student success and  
13 filed with the department of education.

14 C. The cost of summer and extended day remediation  
15 programs and academic improvement programs offered in grades  
16 nine through twelve shall be borne by the parent or guardian;  
17 however, where parents are determined to be indigent according  
18 to guidelines established by the state board, the local school  
19 board shall bear those costs.

20 D. Diagnosis of weaknesses identified by the  
21 reading or writing performance assessment instrument  
22 administered pursuant to Section 22-2-8.5 NMSA 1978 may serve  
23 as criteria in assessing the need for remedial programs or  
24 retention.

25 E. A student who fails to read proficiently by the

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1 end of the third grade shall not be promoted to the fourth  
2 grade until the student reads proficiently, except that the  
3 provisions of this subsection shall not apply to a  
4 developmentally disabled student learning to read in accordance  
5 with a developmentally appropriate plan approved by a certified  
6 school instructor.

7           ~~[E.]~~ F. A parent or guardian shall be notified no  
8 later than the end of the second grading period that his child  
9 is failing to attain appropriate grade level proficiency in  
10 content standards, and a conference consisting of the parent or  
11 guardian and the teacher shall be held to discuss possible  
12 remediation programs available to assist the student in  
13 attaining the required level of proficiency established by the  
14 content standards. Specific academic deficiencies and  
15 remediation strategies shall be explained to the student's  
16 parent or guardian and a written plan developed containing  
17 timelines, academic expectations and the measurements to be  
18 used to verify that a student has overcome his academic  
19 deficiencies. Remediation programs and academic improvement  
20 programs include tutoring, extended day or week programs,  
21 summer programs and other research-based models for student  
22 improvement.

23           ~~[F.]~~ G. Except as provided in Subsection E of this  
24 section, at the end of grades one through seven, three options  
25 are available, dependent on a student's attainment of the

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1 required level of proficiency established by the content  
2 standards:

3 (1) the student has attained the level of  
4 proficiency required by the content standards and shall enter  
5 the next higher grade;

6 (2) the student has not attained the required  
7 level of proficiency and shall participate in the required  
8 level of remediation. Upon certification by the school  
9 district that the student has successfully overcome his areas  
10 of deficiency, he shall enter the next higher grade; or

11 (3) the student has not attained the level of  
12 proficiency required by the content standards upon completion  
13 of the prescribed remediation program and upon the  
14 recommendation of the certified school instructor and school  
15 principal shall either be:

16 (a) retained in the same grade for no  
17 more than one school year with an academic improvement plan  
18 developed by the student assistance team in order to attain  
19 proficiency of content standards, at which time the student  
20 shall enter the next higher grade; or

21 (b) promoted to the next grade if the  
22 parent or guardian refuses to allow his child to be retained  
23 pursuant to Subparagraph (a) of this paragraph. In this case,  
24 the parent or guardian shall sign a waiver indicating his  
25 desire that the student be promoted to the next higher grade

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1 with an academic improvement plan designed to address specific  
2 academic deficiencies. The academic improvement plan shall be  
3 developed by the student assistance team outlining timelines  
4 and monitoring activities to ensure progress toward overcoming  
5 those academic deficiencies. Students failing to attain  
6 proficiency of content standards at the end of that year shall  
7 then be retained in the same grade for no more than one year in  
8 order to have additional time to master the required content  
9 standards.

10 ~~[G.]~~ H. At the end of the eighth grade, a student  
11 who fails to attain proficiency of content standards shall be  
12 retained in the eighth grade for no more than one school year  
13 in order to attain proficiency of content standards or if the  
14 student assistance team determines that retention of the  
15 student in the eighth grade will not assist the student  
16 ~~[attain]~~ in attaining the appropriate level of academic  
17 achievement and proficiency of standards, the team shall design  
18 a high school graduation plan to meet the student's needs for  
19 entry into the work force or a post-secondary educational  
20 institution. If a student is retained in the eighth grade, the  
21 student assistance team shall develop a specific academic  
22 improvement plan that clearly delineates the student's academic  
23 deficiencies and prescribes a specific remediation plan to  
24 address those academic deficiencies.

25 ~~[H.]~~ I. A student who fails to attain proficiency

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1 of content standards for two successive school years shall be  
2 referred to the student assistance team for placement in an  
3 alternative program designed by the school district.  
4 Alternative program plans shall be filed with the department of  
5 education.

6 [~~I-~~] J. Promotion and retention decisions affecting  
7 a student enrolled in special education shall be made in  
8 accordance with the provisions of the individual educational  
9 plan established for that student.

10 [~~J-~~] K. For the purposes of this section:

11 (1) "academic improvement plan" means a  
12 written document developed by the student assistance team that  
13 describes the specific content standards required for a certain  
14 grade level that a student has not achieved and that prescribes  
15 specific remediation programs such as summer school, extended  
16 day or week school and tutoring;

17 (2) "alternative school-district-determined  
18 assessment results" means the results obtained from student  
19 assessments developed by a local school board and conducted at  
20 an elementary grade level or middle school level;

21 (3) "educational plan for student success"  
22 means a student-centered tool developed to define the role of  
23 the academic improvement plan within the district that  
24 addresses methods to improve a student's learning and success  
25 in school and that identifies specific measures of a student's

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1 progress;

2 (4) "statewide assessment results" means the  
3 results obtained from the New Mexico achievement assessment  
4 that is administered annually to grades three through nine  
5 pursuant to state board rule; and

6 (5) "student assistance team" means a group  
7 consisting of a student's:

8 (a) teacher;

9 (b) school counselor;

10 (c) school administrator; and

11 (d) parent or legal guardian."

12 Section 2. APPROPRIATION.--Ten million dollars  
13 (\$10,000,000) is appropriated from the general fund to the  
14 state department of public education for expenditure in fiscal  
15 year 2004 to fund reading enhancement in grades one through  
16 three in the public schools. Any unexpended or unencumbered  
17 balance remaining at the end of fiscal year 2004 shall revert  
18 to the general fund.

19 Section 3. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2003.

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